



Signed and Filed: September 22, 2021

Lewis Montali

**DENNIS MONTALI**  
**U.S. Bankruptcy Judge**

UNITED STATES BANKRUPTCY COURT

NORTHERN DISTRICT OF CALIFORNIA

ORDER DENYING PRICEWATERHOUSECOOPERS LLP'S MOTION FOR STAY  
PENDING APPEAL

## I. INTRODUCTION

Shortly after the Court issued its *Order Compelling PricewaterhouseCoopers LLP's Compliance with Rule 2004 Subpoena in Relation to the General Rate Case Documents ("Order")* (Dkt. 11145), PricewaterhouseCoopers LLP ("PwC") filed a *Notice of Appeal ("Appeal")* (Dkt. 11199), *Motion for Leave to Appeal from*

1 *Order Compelling PricewaterhouseCoopers LLP's Compliance with*  
2 *Rule 2004 Subpoena in Relation to the General Rate Case*  
3 *Documents* (Dkt. 11200), and *Motion for Stay Pending Appeal*  
4 (*"Motion"*) (Dkt. 11201). Trustee for the Fire Victim Trust  
5 filed a corrected *Opposition* to the Motion (*"Opposition"*) (Dkt.  
6 11272). For the reasons discussed below, the Court denies the  
7 Motion and directs PwC to comply with its previous Order.

8 **II. DISCUSSION**

9 PwC's Motion lays out the traditional four factors of a  
10 successful motion for stay pending appeal: (1) likelihood of  
11 success on the merits; (2) irreparable harm to the movant absent  
12 a stay; (3) whether a stay will result in substantial harm to  
13 interested parties; and (4) whether a stay will result in harm  
14 to the general public. PwC fails to make a positive showing on  
15 any of these factors.

16 **A. There Is Little Likelihood of Success on the Merits**

17 The first factor of a stay pending appeal is a likelihood  
18 of success of appeal on the merits. The Court finds little  
19 likelihood of success for PwC's appeal of the Order for two  
20 reasons: (1) PwC has not shown that the Order's underlying 2004  
21 Subpoena is too broad; and (2) PwC has not shown that the  
22 District Court will likely grant leave to hear its interlocutory  
23 appeal.

24 First, the Order and underlying 2004 Subpoena direct a  
25 significant provider of services to the Debtors to provide  
26 relevant records to the Fire Victims Trustee pursuant to Fed. R.  
27 Bankr. P. 2004 ("Rule 2004"). As the Court has previously noted  
28 in its Order, the powers of Rule 2004(b) are broad, and permit

1 discovery of "any matter which may affect the administration of  
2 the debtor's estate." Order at 1-2. The Court further notes  
3 that the grant of examinations under Rule 2004 is largely  
4 discretionary. Here, PwC again argues that the scope of the  
5 2004 Subpoena is too broad by focusing on an almost hyper-  
6 technical interpretation of the term "causation." According to  
7 PwC, if any of the documents requested could lead to a cause of  
8 action other than one relating to PwC's role in wildfire  
9 causation, the entire 2004 Subpoena must fail. The Court  
10 disagrees. The broad scope of Rule 2004 is well established, and  
11 a reiteration of the argument that the 2004 Subpoena must be  
12 limited to what PwC alone deems is relevant to the claims the  
13 Trustee may be later able to bring against PwC remains, to this  
14 Court, an unpersuasive interpretation of Rule 2004.

15 Second, PwC's Appeal is of an interlocutory discovery  
16 order, and PwC has not shown that there is any likelihood the  
17 District Court will grant leave to hear the appeal. District  
18 Courts do not grant leave to appeal interlocutory orders easily,  
19 and PwC's argument for leave appears to consist of an  
20 intentionally narrow reading of the well-established law  
21 surrounding Rule 2004.

22 The Court finds no showing of the likelihood of success on  
23 the merits.

24 **B. PwC Will not Suffer Irreparable Injury Absent a Stay**

25 The second factor of a stay pending appeal is a showing of  
26 irreparable harm to the movant absent the stay. Here, PwC  
27 confuses a potentially weakened position in relation to  
28 hypothetical future discovery disputes and the cost of

1 compliance with irreparable injury. Any future unrelated  
2 discovery disputes pertaining to the scope of discovery shall be  
3 evaluated on its own merits. The weakness of a potential  
4 litigation position does not amount to irreparable injury.  
5 Further, the cost of compliance with a discovery order does not  
6 constitute irreparable injury. *See Renegotiation Bd. v. Banner*  
7 *craft Clothing Co.*, 415 U.S. 1, 24 (1974); *Americans v. Harris*,  
8 No. 2:14-CV-09448-R, 2015 U.S. Dist. LEXIS 188242, at \*4 (C.D.  
9 Cal. May 19, 2015) ("Case law is abundantly clear that the costs  
10 of litigation, including discovery and motion practice, are not  
11 irreparable injury").

12 The Court finds no showing that PwC will face irreparable  
13 injury absent a stay.

14 **C. The Trustee and Public Interest Would Be Substantially  
15 Harmed by a Stay**

16 The third and fourth factors relate to whether a stay would  
17 substantially harm other parties to the proceeding or the  
18 general public. While PwC has been responsive to many other  
19 requests of the Trustee, it has not responded to the specific  
20 2004 Subpoena in relation to the General Case Rate documents.  
21 This delay has resulted in costs to the Fire Victim Trust, a  
22 Trust meant specifically to compensate the many victims of the  
23 Debtors. This delay impedes the Trustee's mandated duty to  
24 develop any facts that may support a claim against PwC that  
25 could lead to recovery for these victims. While the Court  
26 acknowledges PwC's cooperation and responsiveness to other  
27 requests of the Trustee, this does not excuse further delay of  
28 compliance with the Order.

1       The Court finds the Trustee and the general public would be  
2 harmed by the imposition of a stay.

3       **III. CONCLUSION**

4       For the foregoing reasons, the Court DENIES the Motion. The  
5 Court FURTHER ORDERS that PwC comply with its previous Order.

6       **\*\*END OF ORDER\*\***

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